

Serial No. 10/616,196
Attorney Ref. No. 1091-007/JRD
Reply to Office Action Dated February 9, 2005

REMARKS

A non-final Office Action, dated February 9, 2005, rejects pending claims 1-21, 23-35, 27-37 and 39-45 and objects to claims 22, 26 and 38. Claims 1, 3, 7, 22, 23, 24, 26, 28, 29, 33, 34, and 36-38 have been amended herein, and claims 2, 10, and 41-45 have been cancelled. Reconsideration of the rejected claims is respectfully requested in light of the foregoing amendments and following remarks.

Allowable Subject Matter

The examiner has objected to claims 22, 26 and 38 as being dependent on rejected based claims, but allowable if amended to place them into independent format with all of the limitations of their base claims and any intervening claims. Applicant has so amended these claims, so they should now be in condition for allowance.

35 USC § 112 (second paragraph)

Claims 3, 7, 24, 29, 33, 34, and 36 have been amended as noted herein to address the 35 USC § 112 (second paragraph) issues identified by the examiner. These claims should now be in proper format for further examination.

Drawing Objections

Applicants have canceled method claims 41-45 obviating the need to show these methods in drawings in this application.

35 USC § 103

In light of the foregoing amendments, Applicant respectfully traverses the examiner's rejection of the currently pending claims.

A. Essential elements are missing from the references of record

As an initial matter, none of the references of record teach or suggest the following elements of the claims at issue:

1. The tab portion of the pull being shorter than the handle portion as set forth in Independent claims 1, 23, and 28; and,
2. The pull being substantially planar as set forth in claims 6, 11 and 37.

"It is never appropriate to rely solely on 'common knowledge' in the art without evidentiary support in the record, as the principal evidence upon which a rejection was

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based." MPEP Sec. 2144.03(A). Accordingly, should the examiner continue to maintain her rejections of these claims without support for these elements being found in any references of record, applicants respectfully request documentary evidence to support the examiner's position on this issue pursuant to MPEP Sec. 2144.03(C).

Applicant maintains that claims 1, 6, 11, 23, 28, and 37 are now in condition for allowance because no references of record alone or in combination teach or suggest the combination of elements as set forth in these claims. Moreover, since pending dependent claims 2-9, 12-21, 24, 25, 27, and 39-40, which all depend on one of these allowable claims, should also now be in condition for allowance.

B. There is no teaching or suggestion to combine the references of record.

Even if all of the elements of the present invention could be found in references of record, there is no teaching or suggestion to combine them in the manner set forth in the currently pending claims. "Obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so" [MPEP § 2143.01].

Among other combinations, there is no teaching or suggestion to use the pull of the present claims on the following articles:

1. article of footwear (Claims 20, 22, and 33-35)
2. on a back-pack (claim 15) ; and/or,
3. on an article of apparel (claim 16, 17, 28) as currently claimed in the present claims.


The only reference of record teaching such a combination of elements is found in the present application as currently filed. Accordingly, claims 15-17, 20, 22, 28, and 33-35 are also patentable on these grounds.

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In view of the foregoing, applicant submits that all of the currently pending claims are in condition for allowance, and respectfully requests that the case be passed to issuance. If the Examiner has any questions, she is invited to contact applicants' attorney at the below-listed telephone number.

Respectfully submitted,

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